

## **§ 955.10**

hearing to be conducted and should explain the reasons for its choices.

EFFECTIVE DATE NOTE: At 76 FR 37660, June 28, 2011, § 955.9 was revised, effective July 28, 2011. For the convenience of the user, the revised text is set forth as follows:

### **§ 955.9 Hearing request.**

As directed by Board order, each party shall inform the Board, in writing, whether it requests a hearing as prescribed in §§ 955.18 through 955.25, or in the alternative submission of its case on the record without a hearing as prescribed in § 955.12. If a hearing is requested, the request should state where and when the requesting party desires the hearing to be conducted and should explain the reasons for its choices. After considering the parties' requests, the Board will determine whether a hearing will be held.

### **§ 955.10 Prehearing briefs.**

Based on an examination of the documentation described in § 955.5, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to § 955.9. In the absence of a Board requirement therefor, either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall be furnished simultaneously to the other party.

EFFECTIVE DATE NOTE: At 76 FR 37660, June 28, 2011, § 955.10 was amended by revising the first sentence, effective July 28, 2011. For the convenience of the user, the revised text is set forth as follows:

### **§ 955.10 Prehearing briefs.**

Based on an examination of the documentation described in § 955.5, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been ordered pursuant to § 955.9. \* \* \*

## **39 CFR Ch. I (7–1–11 Edition)**

### **§ 955.11 Prehearing or presubmission conference.**

(a) Whether the case is to be submitted pursuant to § 955.12, or heard pursuant to §§ 955.18 through 955.25, the Board may upon its own initiative or upon the application of either party, convene a conference to consider:

(1) The simplification or clarification of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(3) The limitation of the number of expert witnesses, or avoidance of similar cumulative evidence, if the case is to be heard;

(4) The possibility of agreement disposing of all or any of the issues in dispute; and

(5) Such other matters as may aid in the disposition of the appeal.

(b) The results of the conference shall be reduced to writing by the Board and this writing shall thereafter constitute part of the record.

### **§ 955.12 Submission without a hearing.**

Submission of the case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the record which will be settled pursuant to § 955.14. The Board may permit such submission to be supplemented by oral argument (transcribed if requested), and by briefs in accordance with § 955.24.

### **§ 955.13 Optional Small Claims (Expedited) and Accelerated Procedures.**

(a) *The Small Claims (Expedited) Procedure.* (1) The Expedited Procedure is available solely at the election of the appellant. Such election requires decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election to utilize this procedure.

(2) The appellant may elect this procedure when: